

EXHIBIT 5

Jeffrey Chubak

From: Carlton Cabot <ccabot@pastore.net>
Sent: Monday, July 18, 2022 4:41 PM
To: 'shl.orders@nysb.uscourts.gov'
Cc: 'Goldman, Irve J.'; Howard P. Magaliff (hmagaliff@r3mlaw.com); Joseph M. Pastore; Melissa McClammy; Paul Fenaroli; Steven L. Levitt; Trevor Gomberg; 'Rattet, Robert L.'; Glucksman, James B.; 'leonard@benowichlaw.com'; 'jzelman@fordharrison.com'; Avery Samet; Jeffrey Chubak; 'ustpregion02.nyecf@usdoj.gov'
Subject: In re: The Gateway Development Group, Inc.; Magaliff v. Fareri, AP 21-07093 - Scheduling Order - 7.18.2022
Attachments: 2022.07.18 Scheduling Order - Carnicelli Jr. et al v. Sheskier et al No. 21-22304-SHL.pdf

Good afternoon Ms. Ebanks,

Our firm, Pastore LLC, is co-counsel for Plaintiff James Carnicelli Jr, in the matter of The Gateway Development Group, Inc.; *Magaliff v. Fareri*, AP 21-07093.

Attached please find the Scheduling Order for this matter. This Scheduling Order has been reviewed and approved by all parties.

Respectfully submitted,
Chip Cabot

Chip Cabot | Law Clerk
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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

THE GATEWAY DEVELOPMENT GROUP,
INC.,

Debtor.

JAMES CARNICELLI, JR. and
HOWARD P. MAGALIFF, Chapter 7
Trustee of The Gateway Development
Group, Inc.,

Plaintiffs,

v.

JOHN J. FARERI, JULIE FARERI and
CHRISTOPHER SHESKIER,

Defendants.

JOHN J. FARERI,

Counterclaim Plaintiff,

v.

JAMES CARNICELLI, JR.,

Counterclaim Defendant.

Chapter 7

Case No. 21-22304-SHL

Adv. Proc. No. 21-7093-SHL

SCHEDULING AND PRE-TRIAL ORDER

The parties cannot amend this order by stipulation or otherwise, and the Court will not amend it unless presented with (i) proof of cause beyond the control of the party seeking amendment and (ii) timely application as soon as possible after the party seeking amendment learns of the cause. FAILURE TO COMPLY WITH THIS ORDER MAY RESULT IN DISMISSAL OR OTHER SANCTION. If delay or other act or omission of your adversary may result in a sanction against you, it is incumbent on you to promptly bring this matter to the Court for relief.

It is hereby ORDERED as follows:

1. Defendants shall file the statement required by Fed. R. Bankr. P. 9027(e)(3) by July 11, 2022.
2. The parties shall exchange their respective Fed. R. Civ. P. 26(a)(1) disclosures by July 11, 2022.
3. All fact discovery shall be completed by December 15, 2022. In the event of a

dispute over discovery, the parties' counsel shall promptly confer to attempt in good faith to resolve the dispute. If, notwithstanding their good faith efforts to do so, they are unable to resolve a discovery issue, they shall promptly inform the Court by letter of the nature of the dispute and request a telephonic discovery conference. At the conference, the Court will ask the parties about their prior efforts to resolve the dispute.

4. Expert discovery:
 - a. Deadline for Plaintiffs to serve expert disclosures: January 18, 2023.
 - b. Deadline for Defendants to serve expert disclosures: February 15, 2023.
 - c. Deadline for Plaintiffs to serve rebuttal expert reports: March 1, 2023.
 - d. All expert discovery shall be completed by April 15, 2023.
5. Either or both parties may seek leave under the Local Bankruptcy Rules to move for summary judgment under Fed. R. Bankr. P. 7056 after completion of discovery and before taking the steps set forth in paragraphs 6-9 below. If such request is granted, the parties shall schedule the adjourned pre-trial conference to take place approximately one month after the scheduled hearing on summary judgment.
6. The Court will hold a final pretrial conference on _____, _____ at 10:00 A.M. (unless a party has previously obtained permission under the Local Bankruptcy Rules to move for summary judgment, which motion shall be heard at that date and time), at which time the parties must be prepared to proceed to trial within two weeks.
7. In advance of the final pretrial conference, the parties shall have conferred and used their best efforts to agree on a joint exhibit book and shall have identified any exhibits whose admissibility is not agreed.
8. In addition, on or before two weeks before the final pretrial conference, the parties shall have exchanged proposed witness lists.
9. On or before one week before the scheduled trial date, the parties shall (a) submit to chambers declarations under penalty of perjury or affidavits of their direct witnesses, who shall be present at trial for cross-examination and redirect, or have sought the Court's permission to examine direct witnesses at trial, except as otherwise provided in the joint pretrial order and (b) submit to chambers the joint exhibit book referred to in paragraph 7 hereof.

Dated: White Plains, New York

_____, _____

Hon. Sean H. Lane
United States Bankruptcy Judge